IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc-M-23632 of 2007

Date of decision: 26.7.2007

Shavinder Pal Singh …Petitioner

Versus

State of Punjab …Respondent

Present: Mr Satnam Singh Gill, Advocate for the petitioner.
Mr IPS Sidhu, Sr DAG Punjab.

S.S. SARON, J.

Heard counsel for the parties.

The petitioner seeks bail pending trial in a case under Sections 15 and 25 of the NDPS Act, 1985.

Rulda Singh Sub Inspector, Incharge Police Post City Patran along with other police officials in a private vehicle had set up a special barricade (Naka) at the bye pass chowk in village Nial, Patiala Road, Patran. A gold coloured Indica Car was seen coming from Nabha side which was driven by a turbaned youngman. The car was signaled to stop. However, the driver instead of stopping , slowed the car near the Police party and then fled away at a high speed towards bye pass on Sangrur Road. The car was chased with the help of private vehicle. Then on the bye pass road of village Nial, a truck was coming from the Sangrur side. The driver of the car stopped the car and after opening the windows, attempted to run away. He was, however, apprehended with the help of the accompanying police officials. He disclosed his identity as Shavinder Pal Singh @ Shinder

(petitioner). Charanjit Singh arrived at the spot and he was joined by the Police party. On search of the car, 2 plastic bags were found lying on the rear seats which raised suspicion. The petitioner was asked whether he wanted to be searched by a Gazetted Officer or a Magistrate. On this, the petitioner told that he had trust in him and that he may conduct the search because by calling a Magistrate or a Gazetted Officer at the spot, he did not want to create authentic evidence against himself. The plastic bags were searched, which led to the recovery of 70 kgs of poppy husk.

The petitioner has been in custody since 25.8.2005. He earlier applied for bail which was declined by this Court on 3.11.2006. The trial Court was, however, directed to conclude the trial within 4 months from the next date fixed before it. Learned counsel for the petitioner has referred to the interim orders passed by the learned trial Court from time to time. However, till date, only one witness i.e. HC Shamsher Singh has been examined. It is not the case of the prosecution that any other case is pending against the petitioner or he has been involved in similar activities. There are arguable points in the case. It is to be ascertained during trial whether the petitioner was in conscious possession of the contraband as it is to be established that the petitioner was the owner or the driver of the vehicle or whether he has no concern with it. Besides, the Police party had used a private vehicle at the time of holding the special barricade (Naka) at the bye pass chowk. However, no private driver is shown to be examined or joined by the Police during investigation. These aspects are to be gone into after the trial. These in any case, do prima facie show that there are certain discrepancies which would, however, require consideration after evidence has been led. In any case, the petitioner has been in custody since 25.8.2005 for almost two years and only one witness has been examined so far despite the directions given by this Court on 3.11.2006 to conclude the trial against

the petitioner within 4 months from the next date of hearing fixed before it. The trial Court has been busy in other trials and the case of Amarjit Singh has been consolidated with the present case which has led to the delay. The delay, however, is not attributed to the petitioner. Article 21 of the Constitution of India provides for speedy and expeditious disposal of the trial pending against an accused. Whenever the right under Article 21 is infringed, the Court is to pass appropriate orders to check the breach. Therefore, in the facts and circumstances of the case, it would be just and expedient to admit the petitioner to bail pending trial.

Consequently, the criminal misc petition is allowed and the petitioner, on his furnishing personal bond and surety to the satisfaction of CJM, Patiala, shall be admitted to bail.

26.7.2007. (S.S.SARON)
ASR JUDGE